

United States Patent and Trademark Office

UNITED STATES DEPARTMENT OF COMMERCE United States Patent and Trademark Office Address: COMMISSIONER FOR PATENTS P.O. Box 1450 Alexandria, Virginia 22313-1450 www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/641,378	08/13/2003	Binz DeWalch	D30473USC2	9613
28805	590 02/27/2006		EXAM	INER
ARNOLD & FERRERA, L.L.P.			KIM, YOON YOUNG	
2401 FOUNTAIN VIEW DRIVE SUITE 630		ART UNIT	PAPER NUMBER	
			AKTONII	PAPER NUMBER
HOUSTON, 1	X 77057		1723	

DATE MAILED: 02/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

		·
	Application No.	Applicant(s)
Office Astronomy	10/641,378	DEWALCH, BINZ
Office Action Summary	Examiner	Art Unit
	Yoon-Young Kim	1723
The MAILING DATE of this communication ap Period for Reply	pears on the cover sheet with the	correspondence address
A SHORTENED STATUTORY PERIOD FOR REPL WHICHEVER IS LONGER, FROM THE MAILING D. - Extensions of time may be available under the provisions of 37 CFR 1. after SIX (6) MONTHS from the mailing date of this communication. - If NO period for reply is specified above, the maximum statutory period Failure to reply within the set or extended period for reply will, by statut Any reply received by the Office later than three months after the mailing earned patent term adjustment. See 37 CFR 1.704(b).	DATE OF THIS COMMUNICATIO 136(a). In no event, however, may a reply be till I will apply and will expire SIX (6) MONTHS from te, cause the application to become ABANDONI	N. mely filed the mailing date of this communication. ED (35 U.S.C. § 133).
Status		
1) Responsive to communication(s) filed on 13 A	is action is non-final. ance except for formal matters, pr	
Disposition of Claims		
4) Claim(s) <u>1-97</u> is/are pending in the application 4a) Of the above claim(s) is/are withdra 5) Claim(s) is/are allowed. 6) Claim(s) is/are rejected. 7) Claim(s) is/are objected to. 8) Claim(s) <u>1-97</u> are subject to restriction and/or	awn from consideration.	
Application Papers		
9) The specification is objected to by the Examin 10) The drawing(s) filed on is/are: a) ac Applicant may not request that any objection to the Replacement drawing sheet(s) including the correct 11) The oath or declaration is objected to by the E	cepted or b) objected to by the drawing(s) be held in abeyance. So ction is required if the drawing(s) is o	ee 37 CFR 1.85(a). ojected to. See 37 CFR 1.121(d).
Priority under 35 U.S.C. § 119		
12) Acknowledgment is made of a claim for foreig a) All b) Some * c) None of: 1. Certified copies of the priority documer 2. Certified copies of the priority documer 3. Copies of the certified copies of the priority application from the International Burea * See the attached detailed Office action for a list	nts have been received. nts have been received in Applica ority documents have been receiv au (PCT Rule 17.2(a)).	tion No red in this National Stage
Attachment(s) 1) D Notice of References Cited (PTO-892)	4) 🔲 Interview Summar	y (PTO-413)
2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08 Paper No(s)/Mail Date	Paper No(s)/Mail [

Application/Control Number: 10/641,378 Page 2

Art Unit: 1723

DETAILED ACTION

Election/Restrictions

- 1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - Claims 1, 55-96, drawn to a vessel for processing substances, classified in class
 422, subclass 101.
 - II. Claims 2-54 and 97, drawn to a method for processing substances in a container, classified in class 436, subclass 177.
- 2. The inventions are independent or distinct, each from the other because: Inventions II and I are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another and materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case the apparatus of Invention I can be used to practice another and materially different process such as a process that does not involve biological substances.
- 3. This application contains claims directed to the following patentably distinct species: 1 and 55-71, Claims 1 and 72-89, and Claims 1 and 90-96. The species are independent or distinct because they are directed to related apparatuses. The related inventions are distinct if the inventions as claimed do not overlap in scope, i.e., are mutually exclusive; the inventions as claimed are not obvious variants; and the inventions as claimed are either not capable of use together or can have a materially different design, mode of operation, function, or effect. See MPEP § 806.05(j).

Art Unit: 1723

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, Claim 1 is generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

This application contains claims directed to the following patentably distinct species:

Claims 2-7, Claims 8-54, and Claim 97. The species are independent or distinct because they are directed to related processes. The related inventions are distinct if the inventions as claimed do not overlap in scope, i.e., are mutually exclusive; the inventions as claimed are not obvious variants; and the inventions as claimed are either not capable of use together or can have a materially different design, mode of operation, function, or effect. See MPEP § 806.05(j).

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, there are no generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable

Application/Control Number: 10/641,378

Art Unit: 1723

thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election. Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Page 4

- 5. Restriction for examination purposes is proper because these inventions are distinct for the reasons given above and also because (i) they have acquired a separate status in the art as shown by their different classification, (ii) the search required for the respective groups is not necessarily required by each of the other groups, and (iii) their subject matter is recognized as divergent.
- 6. A telephone call was made to Gordon Arnold on February 7, 2006 to request an oral election to the above restriction requirement, but did not result in an election being made.
- 7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yoon-Young Kim whose telephone number is (571) 272-2240. The examiner can normally be reached on 8:30-4:30, Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda Walker can be reached on (571) 272-1151. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Application/Control Number: 10/641,378

Art Unit: 1723



Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

YK 02/21/06 JOHN KIM

Frimary PATENT EXAMINER